

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Marilyn E. Shade, et al.	Art Unit	: 2178
Serial No.	: 09/964,293	Examiner	: Manglesh M. Patel
Filed	: September 25, 2001	Conf. No.	: 1631
Title	: TEXT COMPOSITION SPACING AMOUNT SETTING DEVICE WITH ICON INDICATORS		

MAIL STOP ISSUE FEE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)

Applicants hereby petition for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent application. Attached herewith is a copy of the Notice of Allowance including a Determination of Patent Term Adjustment under 35 U.S.C. §154(b), mailed April 11, 2006 (Exhibit A), for the above-referenced application. The Notice of Allowance states that the Patent Term Adjustment at allowance is 194 days. Correction of the Patent Term Adjustment calculation to increase PTO Delay from 1032 days to 1135 days, and to increase Total PTA from 194 days to 1135 days, is respectfully requested.

I. REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR/PALM system shows that the United States Patent and Trademark Office (PTO) calculated the Patent Term Adjustment (PTA) as follows:

- 1) The PTO mailed a Notice to File Missing Parts dated October 26, 2001 (Exhibit B), in which we mailed a response on December 20, 2001 (Exhibit C).
- 2) The PTO mailed a Notice of Abandonment on February 5, 2004 (Exhibit D).
- 3) Applicants filed a Petition to Withdraw Notice of Abandonment on March 8, 2004 (Exhibit E). An Applicant Delay of 772 days was accorded. Applicants respectfully disagree with this patent term adjustment calculation.

- 4) On January 11, 2005, Applicants re-submitted the Petition to Withdraw Notice of Abandonment dated March 8, 2004 (Exhibit F).
- 5) The PTO mailed a Withdrawal of Previously Sent Notice on April 25, 2005, noting that the Notice of Abandonment mailed February 5, 2004 was sent in error (Exhibit G), and on the same day, sent another Notice to File Missing Parts (Exhibit H).
- 6) The PTO mailed a Withdrawal of Previously Sent Notice on May 6, 2005, noting that the Notice to File Missing Parts mailed April 25, 2005 was sent in error (Exhibit I).
- 7) The PTO mailed a first, non-final Office Action on September 22, 2005 (Exhibit J). A PTO delay of 1032 days was accorded. Applicants respectfully disagree with this patent term adjustment calculation.
- 8) Applicants filed an Information Disclosure Statement on December 22, 2005 (Exhibit K), to cite art from a corresponding foreign application in compliance with 37 C.F.R. §1.97 (d)(2)(e). An Applicant Delay of 66 days was accorded. Applicants respectfully disagree with this patent term adjustment calculation.
- 9) The PTO mailed an Interview Summary on December 20, 2005, indicating that there was an error in E-DAN relating to the translation for granting of the priority date, and that the case will be examined again (Exhibit L).
- 10) The PTO mailed another first, non-final Office Action on January 3, 2006 (Exhibit M). No PTO delay was accorded; Applicant respectfully disagrees with this patent term adjustment calculation.
- 11) Applicants submitted a response to the January 3, 2006 office action on February 22, 2006 (Exhibit N). No Applicant Delay was accorded. Applicants concur with this patent term adjustment calculation.
- 12) The PTO mailed a Notice of Allowance on April 11, 2006 (Exhibit O). No Applicant Delay was accorded. Applicants concur with this patent term adjustment calculation.
- 13) The PTO calculates a total PTO Delay of 1032 days and a total Applicant Delay of 838 days, for a total (net) PTA of 194 days. Applicants respectfully submit that the PTO's calculation of PTO Delay contains errors and that the correct total PTO

Delay is 1135 days; the correct total Applicant Delay is 0 days; thus yielding a total PTA of 1135 days.

II. CALCULATION OF APPLICANT DELAY

Applicants were assessed a delay of 772 days in connection with the Notice of Abandonment which was erroneously mailed by the PTO. As you can see from Exhibits B, E and F, the response to the Notice to File Missing Response dated October 26, 2001, was timely filed on December 20, 2001. In addition, the Withdrawal of Previously Sent Notice dated April 25, 2005 (Exhibit G) specifies that the Notice of Abandonment mailed February 5, 2004 (Exhibit D) was mailed in error and was therefore withdrawn. Accordingly, Applicant should not incur a delay for an error admitted by the PTO, please adjust the Applicant delay from 772 days to 0 days.

Applicants were assessed a delay of 66 days in accordance with filing an Information Disclosure Statement on December 22, 2005. This particular information disclosure statement was filed to cite art from a corresponding foreign counterpart application. The art was cited in an Office Action dated November 22, 2005, which is within the time limits provided to file art from a foreign counterpart application and not incur Patent Term Adjustment. Accordingly, Applicants respectfully request that the PTO adjust the Applicant delay from 66 days to 0 days.

III. CALCULATION OF PTO DELAY

Applicants received a first office action dated September 22, 2005 (Exhibit J). Applicants received an Interview Summary dated December 20, 2005 (Exhibit L), advising us of an error the Examiner found, and indicated that the case ... "will need to be examined from the start again" ... thereby re-setting the clock for the first office action.

Applicants received a "second" first office action dated January 3, 2006 (Exhibit M), in which the Applicants filed a timely response on February 22, 2006 (Exhibit N). As this is truly the first office action in which the Applicants were able to respond to, Applicant's respectfully request that the PTO be assessed a total PTA of 1135 days, which is the time from fourteen

months from the filing date (November 25, 2002), to the date of the first office action (January 3, 2006).

IV. DOCUMENTS ENCLOSED

A copy of each of the following documents is provided herein:

- 1) Copy of the Determination of Patent Term Adjustment under 35 U.S.C. §154(b), dated April 11, 2006 (Exhibit A);
- 2) Copy of the Notice to File Missing Parts dated October 26, 2001 (Exhibit B);
- 3) Copy of the Response to Notice to File Missing Parts dated October 26, 2001, as mailed on December 20, 2001 (Exhibit C);
- 4) Copy of the Notice of Abandonment dated February 5, 2004 (Exhibit D);
- 5) Copy of the Petition to Withdraw Notice of Abandonment dated March 8, 2004 (Exhibit E);
- 6) Copy of the Re-faxed Petition to Withdraw Notice of Abandonment dated March 8, 2004, as faxed on January 11, 2005 (Exhibit F);
- 7) Copy of the Withdrawal of Previously Sent Notice dated April 25, 2005 (Exhibit G);
- 8) Copy of the Notice to File Missing Parts dated April 25, 2005 (Exhibit H);
- 9) Copy of the Withdrawal of Previously Sent Notice dated May 6, 2005 (Exhibit I);
- 10) Copy of the Office Action dated September 22, 2005 (Exhibit J);
- 11) Copy of the Information Disclosure Statement dated December 22, 2005 (Exhibit K);
- 12) Copy of the Interview Summary dated December 20, 2005 (Exhibit L);
- 13) Copy of the Office Action dated January 3, 2006 (Exhibit M);
- 14) Copy of the Response to Office Action dated January 3, 2006, as filed on February 22, 2006 (Exhibit N);
- 15) Copy of the Notice of Allowance dated April 11, 2006 (Exhibit O).

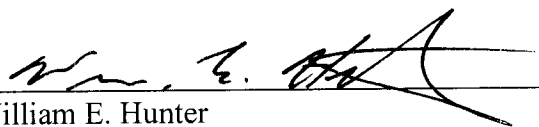
V. REMARKS

In consideration of the events described above, Applicants believe the Total PTA calculation of 194 days is incorrect. Applicants respectfully request recalculation of the patent term adjustment to reflect that the total Applicant delay should be calculated as 0 days, and the PTO delay should be calculated as 1135 days, resulting increase of the Total PTA from 194 days to 1135 days.

Please charge the petition fee of \$200 required under 37 CFR §1.18(e), and apply any additional charges or credits to our Deposit Account No. 06-1050.

Respectfully submitted,

Date: July 10, 2006



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